

PART 5311—DESCRIBING AGENCY NEEDS

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SUBPART 5311.4—DELIVERY OR PERFORMANCE SCHEDULES

5311.403 Supplies or services.

The contracting officer shall notify the administering office, if appropriate, when the date of receipt has been established. The contracting officer shall maintain completed receipts/cards in the contract file.

(a)(3) When contract delivery schedules are based on date of receipt of the contract by the contractor, the contracting officer generally should use certified mail to determine the date of receipt. As an alternative, business reply cards may be used if advantageous to the Government. Business reply cards shall, as a minimum, provide the following information: (i) contractual document number; (ii) dates mailed and received; (iii) name of contractor; and (iv) signature of authorized representative.

SUBPART 5311.5—LIQUIDATED DAMAGES

5311.502 Policy.

(a) The contracting officer shall obtain legal advice and review before placing liquidated damages clauses in solicitations and contracts for other than construction.

(b) The contracting officer shall document the contract file with an explanation of calculation rate of liquidated damages used in the solicitation or contract. The contracting officer shall obtain recommendations from the customer to estimate the probable losses attributable to delays in acquiring delivery or performance. If the contracting officer's determination of an appropriate liquidated damages amount is significantly different from the recommended amount, the contracting officer shall include an explanation of the differences in the contract file.

(d) Any contractor request to the contracting officer for total or partial remission of liquidated damages previously assessed shall be submitted in writing to the contracting officer. If the contracting officer determines that the request is without merit, the contracting officer shall deny the request. If the contracting officer determines the request has merit, the contracting officer shall forward recommendations for total or partial remissions through command contracting channels to SAF/AQCP.

5311.503 Procedures.

(b) The contracting officer shall obtain the estimated cost of superintendence and inspection from the local civil engineering personnel or the applicable architect-engineer contractor for Title II inspection services. The contracting officer shall also consider the estimated cost of additional contract administration required if delivery or performance is delayed. This cost is based on the average hourly wage rate of local contract administration personnel, plus associated overhead costs, for additional hours required to administer the contract. Average hourly rates and associated overhead can be obtained from the local comptroller staff. Additional examples of specific losses that may be appropriate for consideration include:

- (1) Extraordinary operation and maintenance costs;
- (2) Costs associated with storage of Government-furnished equipment;
- (3) Estimated loss of net revenue (e.g., open messes);
- (4) Costs resulting from delays to follow-on Government contracts; and
- (5) Deployment costs.

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SUBPART 5311.6—PRIORITIES AND ALLOCATIONS**5311.603 Procedures.**

Contracting officers shall apply DO and DX ratings to contracts in accordance with DODI 4400.1, DOD 4400.1-M, and AFI 63-602. The authority to approve DD Form 691, Approval of Rating for Production Equipment, is delegated to the DPAS Officer. Guidelines for approval are contained in DODI 4400.1, DOD 4400.1-M, and AFI 63-602.